

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 11.09.2006

Coram

THE HONOURABLE MR. JUSTICE R.REGUPATHI

Criminal Original Petition No.22651 of 2006

M/s.Goyal Sales Corporation,
rep. by its Proprietor
Naresh Kumar Goyal,
AG 49-B, River View Colony,
Anna Nagar, Chennai 40. .. Petitioner/Defacto Complainant

vs.

State by
The Inspector of Police,
12th Team, CCB, Egmore,
Chennai (Crime No.9 of 2003) .. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Cr.P.C. to transfer the investigation to the CB CID, Metro Chennai or any other agency for reinvestigation in Crime No.9 of 2003 for an offence under Sections 420 and 406 I.P.C.

For Petitioner : Ms.K.Sumathi

For Respondent : Mr.Hasan Mohamed Jinnah
Govt. Advocate (Crl. Side)

O R D E R

The petitioner is the defacto complainant, who filed a private complaint before the learned XIV Metropolitan Magistrate, Egmore, Chennai, for the offences punishable under Sections 420, 406 r/w Section 34 I.P.C. Investigation was ordered under Section 156(3) of the Code of Criminal Procedure by the learned Magistrate. As the investigation has not been carried out properly, the petitioner has filed Crl.O.P.No.7470 of 2003 before this Court and after hearing both sides, an order has been passed on 23.04.2003 as follows:

"All these matters would constitute an offence. For collecting further materials, further investigation is absolutely necessary and for that purpose, custodial interrogation of the petitioner is not to be avoided.

Under these circumstances, I am unable to agree with the contention of the learned senior counsel for the petitioner that the matter is of civil in nature."

2. Thereafter, investigation has been completed by the Inspector of Police, Crime Branch, and the case has been referred as "civil in nature". A protest petition has been filed before the learned Magistrate and in which, a further investigation is sought for. The learned Magistrate has ordered further investigation after observing as follows:

"7. Further a perusal of the final report submitted by the Investigating Officer would not disclose that he has examined the witnesses cited by the complainant and perused the documents. Along with the final report only the statement of the complainant is found. It is the specific accusation of the complainant that the accused supplied inferior materials by falsely representing that they were imported from Malaysia. It is clear that no investigation was made in that field. This court is of the view that the Investigating Officer has not done investigation properly and this is a fit case for reinvestigation."

3. The present petition has been filed by the learned counsel for the petitioner seeking for transfer of the case. The learned counsel for the petitioner submits that though an order has been passed by the learned Magistrate on 05.12.2003, the respondent police has not even enquired the complainant and investigation has not been taken up.

4. The learned Government Advocate submits that as per the Court's order, reinvestigation has been taken up and still it is pending investigation.

5. I perused the materials available on record.

6. In spite of the observation of this Court and in spite of the specific direction of the learned Magistrate, the respondent police is highly lethargic and they have not even examined the complainant and started the investigation. After receiving the Courts' orders, the respondent police, without taking any step, without examining any witness and collecting materials, are sleeping over the matter for years together.

7. In view of the facts and circumstances of the case, I am constrained to transfer the investigation of the case to CB CID. Under such circumstances, the Commissioner of Police, Chennai, is directed to receive back all the papers in Crime No.9 of 2003 on the file of the respondent and transfer the same to the Inspector General of Police, CB CID. The Inspector General of Police, CB

CID, may nominate a competent officer to investigate this case and in view of the long pendency of the case, the new Investigating Officer may proceed with the case and conclude the investigation at the earliest.

With the above direction, the transfer of the investigation is ordered.

ATR

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. THE XIV METROPOLITAN MAGISTRATE
EGMORE, CHENNAI 8.
2. DO THRO THE CHIEF METROPOLITAN MAGISTRATE
EGMORE CHENNAI 8.
3. THE COMMISSIONER OF POLICE,
EGMORE CHENNAI 8.
4. THE INSPECTOR GENERAL OF POLICE
CBCID, CHENNAI.
5. THE INSPECTOR OF POLICE,
12TH TEAM, CCB, EGMORE, CHENNAI.
6. THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

+ 2 ccs to M/s. K. Sumathi, Advocate SR No. 42457

GM(CO)
SR/22.9.2006

CrI.O.P.No.22651 of 2006